

REMARKS

Dependent claim 54 has been amended, and new claims 58-65 have been added. Written description support for these claim amendments is found throughout the original specification. No new matter has been added. Applicant requests reconsideration of the pending claims in view of the amendment and the following remarks.

Specification

The Office Action objected to the specification under MPEP § 608.01(o) for lack of antecedent basis for the claimed “means for attaching said housing to the skin of a user.” In particular, the Office Action asserts that Applicant is “require[d]” to amend the specification pursuant to MPEP § 608.01(o) because one claim element recites a means-plus-function element. This objection is not proper.

MPEP § 2181 governs the examination of means-plus-function claim element. According to MPEP § 2181(IV), the Examiner should require an amendment to the specification when “the written description **only implicitly or inherently** sets forth the structure, materials, or acts corresponding to a means-plus-function.” That is not the situation here. Applicant’s original specification explicitly sets forth a clear examples of structure that corresponds to the claimed means for attaching. In particular, examples of the corresponding structure, such as the adhesive structure that attaches the device housing to the user’s skin, are thoroughly described in the specification at FIGS. 6, 7d-g, 28, and 29; at page 9, lines 16-18; at page 17, line 23 to page 18, line 2; at page 3, lines 10-11; at page 4, lines 18-19; and at page 5, lines 30-31. In short, the originally filed specification provides proper support for the claimed means for attaching, in full accordance with MPEP § 2181(IV) and MPEP § 608.01(o). Applicant respectfully requests withdrawal of the objection to the specification.

Claim Objections

The Office Action objected to claim 50 because it employs means-plus-function language. For reasons previously described, Applicant respectfully traverses because the originally filed specification provides proper support for the claimed means for attaching, in accordance with MPEP § 2181(IV) and MPEP § 608.01(o). Also, the Office Action objected to

dependent claim 54 due the use of the abbreviation "POM." Claim 54 has been amended to clarify the ordinary meaning of this abbreviation (as suggested by the Examiner). Applicant respectfully requests withdrawal of the claim objections.

Claims 50-57

Independent claim 50 and particular dependent claims were rejected under 35 U.S.C. § 102(e) as being anticipated by Flaherty (U.S. Patent No. 6,656,159). Applicant respectfully disagrees. The Flaherty reference fails to disclose each and every element of claim 50.

First, unlike claim 50, Flaherty fails to disclose a medicine dispensing device having "*a flexible piston rod*" having an outer thread pattern on at least a portion thereof, the piston rod being *movable in a forward longitudinal direction* to force medicine from the medicine container." To the contrary, the Flaherty references discloses that the lead screw 202 is "made of a *rigid* material." (Flaherty at col. 9, lines 44-47.) Also, Flaherty asserts it is advantageous when the lead screw 202 is "entirely contained within the reservoir 30" and thus is not movable in a forward longitudinal direction inside the reservoir. (*Id.* at col. 9, lines 34-38.) In short, nothing in the Flaherty reference indicates that the lead screw 202 (or 606) should be "flexible" or that the lead screw 202 (or 606) should be "mov[ed] in a forward longitudinal direction" as described and claimed by the Applicant. For this reason alone, the Flaherty reference fails to anticipate claim 50, and the § 102(e) rejection must be withdrawn.

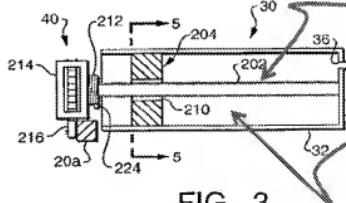


FIG. 3

Flaherty teaches that the lead screw 202 is "rigid," *not* that it operates as a flexible piston rod. (Flaherty at col. 9, lines 44-47.)

According to Flaherty, the lead screw 202 must be "entirely contained within the reservoir 30" to achieve certain advantages. Thus the lead screw 202 *not* movable in a forward longitudinal direction inside the reservoir. (*Id.* at col. 9, lines 34-38.)

Second, unlike claim 50, fails to disclose a medicine dispensing device having "*a pivotable body* disposed in the housing and adjustable between a forward position and a reset position, wherein adjustment of the *pivotable body* from the reset position to the forward position causes the ratchet wheel to rotate in said forward rotational direction." The office Action contends that Flaherty's slide 504 serves as the claimed pivotable body, but this is incorrect. Flaherty's slide 504 operates exactly how its name implies—by sliding in a linear

movement, not a pivoting movement. Indeed, Flaherty expressly states that the slide 504 is similar to slide 304 (FIGS. 16-19), which provides a "linear movement." (*Id.* at col. 17, lines 18-21 and col. 14, line 17.) As such, Flaherty's slide 504 is unlike the claimed pivotable body disposed in the housing and adjustable between a forward position and a reset position. For this reason alone, the Flaherty reference fails to anticipate claim 50, and the § 102(e) rejection must be withdrawn.

Applicant respectfully submits that independent claim 50 is patentable over the Flaherty reference and all other references cited in the record. Dependent claims 51-57 are patentable for at least the same reasons as claim 50 and for the additional inventive combinations described therein.

#### Claims 58-65

New independent claim 58 and its dependent claims 59-65 have been added to define further embodiments. Applicant respectfully submits that independent claim 58 is patentable over Flaherty and all other references cited in the record.

For example, unlike claim 58, Flaherty fails to disclose or suggest a medicine dispensing device including "a flexible piston rod having an outer thread pattern on at least a portion thereof, the piston rod being movable from a flexed configuration in the housing toward a forward longitudinal direction relative to the medicine container to force medicine from the medicine container." Also, Flaherty fails to disclose or suggest "a pivotable body disposed in the housing and pivotable between a forward position and a reset position, wherein adjustment of the pivotable body from the reset position to the forward position causes the ratchet wheel to rotate in said forward rotational direction." Further, the Flaherty reference fails to disclose additional elements recited in claim 58.

Applicants respectfully submit that independent claim 58 is patentable over Flaherty and all other references cited in the record. Dependent claims 59-65 are patentable for at least the

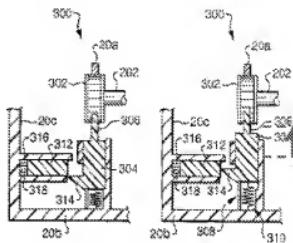


FIG. 16

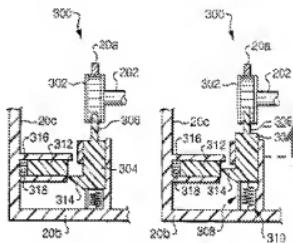


FIG. 17

Flaherty's slide 504 (similar to slide 304) is merely an object that slides in a "linear movement," not a pivoting movement. (Flaherty at col. 17, lines 18-21 and col. 14, line 17.)

same reasons as independent claim 58 and for the additional inventive combinations described therein.

Request for Reconsideration

Applicant respectfully requests reconsideration and allowance of pending claims 50-65. It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper. Applicant hereby specifically reserves the right to prosecute claims of different or broader scope in a continuation application. The Patent Office should infer no (i) adoption of a position with respect to patentability, (ii) change in the Applicant's position with respect to any claim or subject matter of the invention, or (iii) acquiescence in any way to any position taken by the Office Action, based on the amendments made herein.

No fee is believed to be due at this time. If necessary, please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

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